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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Cooperation with representatives of United Nations human rights bodies

Report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 1994/70

GE.95-10988 (E)

Introduction

1. At its fiftieth session, the Commission on Human Rights, reiterating its concern at the continued reports of intimidation and reprisals against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies and at reports about incidents where private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms, adopted resolution 1994/70 in which it urged Governments to refrain from all acts of intimidation or reprisal against: (a) those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them; (b) those who avail or have availed themselves of procedures under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose; (c) those who submit or have submitted communications under procedures established by human rights instruments; and (d) those who are relatives of victims of human rights violations.

2. In the same resolution, the Commission requested all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way and to help prevent the occurrence of such intimidation or reprisals, as well as to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities or the General Assembly a reference to allegations of intimidation or reprisal and of hampering access to United Nations human rights procedures, as well as an account of action taken by them in this regard.

3. The Commission further requested the Secretary-General to draw the attention of such representatives and treaty bodies to the present resolution and invited him to submit to the Commission at its fifty-first session a report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against those referred to in the resolution.

I. INFORMATION RECEIVED PURSUANT TO COMMISSION ON HUMAN RIGHTS RESOLUTION 1994/70

4. Information received pursuant to resolution 1994/70 covers a variety of situations in which persons have been intimidated or prevented from availing themselves of domestic and international procedures or have suffered reprisals for having done so or for having provided information on violations of human rights.

5. In cases in which the victims - individuals or organizations - had been in contact with one of the bodies of the Commission on Human Rights, action was taken, whenever requested, for their protection by the relevant body or the representative in charge of the relevant mandate of the Commission. In most cases, the relevant body addressed urgent communications to the

Government concerned. This prompt intervention procedure is described in a previous report to the Commission under this item (see E/CN.4/1992/25, paras. 14-18). Action taken during 1994 is described in the following chapter, which contains a summary of the cases and, where applicable, the replies received from the Governments to which they were transmitted.

II. ALLEGATIONS OF INTIMIDATION AND REPRISALS RECEIVED AND PROCESSED BY REPRESENTATIVES OF UNITED NATIONS HUMAN RIGHTS BODIES

6. This chapter contains a summary of the information received and the action taken during 1994 by representatives of the Commission on Human Rights in pursuance of resolution 1994/70. As in former years, the acts of reprisals reported ranged from veiled threats to extrajudicial executions. All the alleged victims were private individuals or members of non-governmental organizations which were or had been sources of information about human rights violations for United Nations human rights bodies. The fact that, for a number of these individuals and organizations, urgent appeals calling on the Governments concerned to ensure effective protection and reminding them of resolution 1994/70 have been sent on repeated occasions during the past years, gives rise to concern. Allegations of cases where persons who had personally met with representatives of United Nations human rights bodies subsequently suffered reprisals also continued to be received and are most disturbing.

A. Independent Expert on the situation of human rights in Guatemala (see E/CN.4/1995/15)

7. In her report to the Commission on Human Rights, the Independent Expert referred to several cases of human rights violations against members of human rights organizations which regularly report to United Nations human rights bodies. Mario Polanco, member of the Mutual Support Group for the Appearance of our Relatives Alive, GAM, was allegedly abducted and tortured. The disappearances of Julio Tian and Manuel Xaper, also members of GAM, as well as that of José Sucunú Panjoj, member of the Council of Ethnic Communities "We are all Equal", CERJ are also mentioned. The killing of a judge of the Constitutional Court, as well as threats against members of the judiciary are also stressed in the report.

8. The Independent Expert received information according to which other human rights activists who have been in contact with United Nations human rights bodies have been intimidated and threatened during 1994. These included the Argentinian Team of Forensic Anthropology working on the investigation of a discovery of mass graves in "Las dos Erres", Rosalina Tuyuc, President of the National Coordinating Committee of Widows of Guatemala (CONAVIGUA), Amílcar Méndez, President of CERJ, as well as Nineth Montenegro, President of GAM, Helen Mack, Karen Fisher Pivaral de Carpio and Jennifer Harbury. The above-mentioned persons have regularly reported cases of human rights violations to the relevant United Nations organs.

B. Working Group on Enforced or Involuntary Disappearances (see E/CN.4/1995/36)

9. During 1994, the Working Group continued to send urgent communications to Governments, urging the authorities to adopt protection measures, in cases in which relatives of missing persons or other individuals or organizations which have cooperated with the Group, as well as their legal counsel, were being subjected to intimidation, persecution or reprisals, in accordance with resolution 1994/70. The summaries below reflect urgent appeals and replies from Governments to the extent that they have been included in the latest report of the Working Group on Enforced or Involuntary Disappearances.

Colombia

10. In accordance with resolution 1994/70, the Working Group sent a "prompt intervention" cable on 29 September 1994, after receiving reports of intimidation and harassment against Yanette Bautista and Gloria Herney Galíndez, President and Secretary-General of the Association of Relatives of Detainees-Disappeared, ASFADDES. The Working Group requested to be informed of investigations carried out and protection measures adopted.

Mexico

11. The Working Group sent another "prompt intervention" cable on 27 September 1994, requesting the Government of Mexico to provide protection for representatives of the following four Mexican non-governmental organizations who allegedly had been subjected to acts of intimidation or harassment: Committee of Relatives of the Disappeared, "Eureka"; "Fray Francisco Vitoria" Human Rights Centre; National Independent Committee for the Defence of Those Imprisoned, Persecuted, Disappeared and in Political Exile, CNI; and Centre for Information on and Monitoring of Human Rights in Mexico, A.C.

C. Special Rapporteur on extrajudicial, summary or arbitrary executions (see E/CN.4/1995/61)

12. In 1994, the Special Rapporteur continued to send urgent communications to Governments to ensure effective protection of those reportedly under threat or at risk of execution. In such cases, he urged the competent authorities to adopt all necessary measures to ensure effective protection for those at risk and carry out full, independent and impartial investigations into each case, and requested to be informed about all steps taken in this regard. In the cases described below, in which members of human rights organizations who had provided information to United Nations human rights bodies were said to have received death threats or were in danger of imminent extrajudicial, summary or arbitrary execution, the Special Rapporteur made specific reference to resolution 1994/70.

13. It should be noted that the summaries included below reflect urgent appeals, in accordance with the above-mentioned resolution, and replies from Governments only to the extent that they have been included in the latest report of the Special Rapporteur to the Commission on Human Rights which contains information up to 25 November 1994.

Argentina

14. As in previous years, the Special Rapporteur continued to receive allegations of intimidation and threats against Ms. Hebe de Bonafini, President of the Mothers of the Plaza de Mayo, as well as other members and collaborators of this organization. The Special Rapporteur sent two urgent appeals in which he urged the authorities to guarantee their safety and prevent the recurrence of such threats.

15. The Government of Argentina replied to these urgent appeals, as well as to one sent in 1993, also on behalf of Ms. Hebe de Bonafini, informing the Special Rapporteur that no complaint had been filed by the Mothers of the Plaza de Mayo before the competent courts.

Colombia

16. Several members of human rights organizations which have cooperated for years with United Nations human rights procedures were reportedly victims of harassment and received death threats from members of the security forces or persons said to be cooperating with them as a result of their human rights work. The Special Rapporteur intervened by sending urgent appeals on behalf of human rights lawyers Rafaél Barrios Mendívil of the José Alvear Restrepo Lawyers Collective Corporation, Carlos Alberto Ruiz of the Latin American Institute for Alternative Legal Services, ILSA and Yanette Bautista and Gloria Herney Galíndez, President and Secretary-General of the Association of Relatives of Detainees-Disappeared, ASFADDES. The Special Rapporteur expressed concern at the allegations received and called on the authorities to provide adequate protection measures.

17. According to the information received, human rights activists are very often perceived by the security forces and those allegedly cooperating with them as collaborators or auxiliaries of the armed insurgency. With a view to preventing intimidation, threats and extrajudicial executions, the Special Rapporteur called on the Government to send a signal to those who regard them as an "internal enemy" by recognizing, unequivocally and publicly, the legitimacy of activities aimed at the protection of human rights.

18. The Government provided the Special Rapporteur with replies informing him that investigations had been initiated in the cases of Rafaél Barrios Mendívil and Carlos Alberto Ruiz.

Guatemala

19. After receiving reports of intimidation and death threats against them, the Special Rapporteur intervened by sending urgent appeals on behalf of Nineth de Montenegro and other leading members of the Mutual Support Group for the Appearance of Our Relatives Alive, GAM. The Special Rapporteur urged the authorities to provide adequate measures for their protection and for the prevention of further threats and acts of intimidation.

Honduras

20. The Special Rapporteur transmitted urgent appeals to the Government after being informed of death threats and intimidation against Berta Oliva de Nativí and Dina Meetabel Meza Elivir, both of the National Committee of Relatives of Disappeared in Honduras, COFADEH, and after receiving reports of an attempt against the life of Jorge Alberto Sierra Moncada, member of the Committee for the Defence of Human Rights, CODEH. He called on the authorities to adopt adequate measures for their protection.

Peru

21. An urgent appeal was sent after the Special Rapporteur received reports of death threats against Mariano Paliza Mendoza, journalist and collaborator of the Association for Human Rights, APRODEH, reportedly in relation to a radio programme on human rights directed and presented by him.

Rwanda

22. Between January and March 1994, the Special Rapporteur transmitted two urgent appeals to the Government in which he urged the authorities to guarantee the safety and physical integrity of human rights activists with whom he had been in contact since he met them personally during his first visit to Rwanda in April 1993: Alphonse-Marie Nkubito, then Procurator General at the appeals court of Kigali and President of the Rwandese Association for Human Rights, ARDHHO and André Katabarwa, member of the human rights organization Association of Volunteers for Peace, AVP. Both were said to have been victims of threats and attempts against their lives.

D. Special Rapporteur on the situation of human rights in Myanmar (see E/CN.4/1995/65)

23. Five citizens of Myanmar, Khin Zaw Win, Khin Maung Swe, Sein Hla Oo, San San Nwe and Ma Mya Moe Moe, who had had contacts with the Special Rapporteur, were said to have been taken into custody on the accusation of "having made arrangements to send fabricated news on Myanmar to the Special Rapporteur during his visit to the country in 1992". The Special Rapporteur raised this case with the authorities of Myanmar during his visit to the country in October 1994. The High Commissioner for Human Rights also addressed an urgent communication to the Government of Myanmar (5 October 1994), in which he expressed concern at these reports and reiterated that persons cooperating with the Special Rapporteur have the legitimate right not to be persecuted.

24. On 10 October 1994, the Government of Myanmar provided a reply in which it informed the High Commissioner for Human Rights that:

> "on 4 July 1994, security personnel of Mingaladon Airport caught Dr. Khin Zaw Win, a dental surgeon, with documents against Myanmar, computer discs containing anti-government material and confidential data from the Ministry of Energy of the Government of Myanmar, together with 62 polished rubies and sapphires and undeclared foreign currency, which he was trying to smuggle out of the country. Since December 1992,

Dr. Khin Zaw Win had been in contact with U Khin Maung Swe, Daw San Sen Nwe and U Sein Hla Oo. The group met with foreign journalists and contacted diplomats of some foreign embassies to send news comments that were against or were critical of the Government in order to make foreign governments misunderstand the Government of Myanmar. Since Dr. Khin Zaw Win and his group have made contacts with unlawful armed groups, and their acts have been aimed at instigating internal and external machinations against [the] national economy and politics, undermining the Government's efforts for the emergence of a peaceful and modern nation, measures are being taken to take legal action against them under the existing laws."

E. Special Rapporteur on the situation of human rights in Zaire (see E/CN.4/1995/67)

25. During 1994, the Special Rapporteur received information according to which members of human rights organizations were subjected to acts of intimidation. On November 1994, Guillaume Ngefa Atondoko, President of the Zairian Association for the Defence of Human Rights, AZADHO, was reportedly threatened by the Zairian security services for having publicly declared that President Mobutu should testify before the International Tribunal for Rwanda set up by the United Nations Security Council. In January 1994, Mr. Ngefa Atondoko was reportedly detained at Ndjili Airport by agents of the national intelligence service (SNIP) as he attempted to travel abroad. In his report, the Special Rapporteur also mentioned the detention and incarceration of Willy Kalume Lualaba, member of the human rights organization Voice of the Voiceless, by security forces for carrying documents considered seditious. The Special Rapporteur drew these cases to the attention of the Government of Zaire.

F. Special Representative on the situation of human rights in the Islamic Republic of Iran (see A/49/514 and Add.1-2)

26. In his report to the General Assembly at its forty-ninth session, the Special Representative on the situation of human rights in the Islamic Republic of Iran informed that he had received a report about the arrest of Mr. Nasser Anawri and his wife, whose movements had been restricted to the city of Yazd following accusations that they had attempted to provide information to the Special Representative.